

SENATE EDUCATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 581

46TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2004

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
AMENDING THE DEFINITION OF LICENSED PREMISES IN THE LIQUOR
CONTROL ACT; DECLARING AN EMERGENCY.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. Section 60-3A-3 NMSA 1978 (being Laws 1981,
Chapter 39, Section 3, as amended) is amended to read:

"60-3A-3. DEFINITIONS. --As used in the Liquor Control
Act:

A. "alcoholic beverages" means distilled or
rectified spirits, potable alcohol, brandy, whiskey, rum, gin
and aromatic bitters bearing the federal internal revenue strip
stamps or any similar alcoholic beverage, including blended or
fermented beverages, dilutions or mixtures of one or more of
the foregoing containing more than one-half [~~of one~~] percent

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underscored material = new
[bracketed material] = delete

1 alcohol, but excluding medicinal bitters;

2 B. "beer" means an alcoholic beverage obtained by
3 the fermentation of any infusion or decoction of barley, malt
4 and hops or other cereals in water, and includes porter, beer,
5 ale and stout;

6 C. "brewer" means a person who owns or operates a
7 business for the manufacture of beer;

8 D. "club" means:

9 (1) any nonprofit group, including an
10 auxiliary or subsidiary group, organized and operated under the
11 laws of this state, with a membership of not less than fifty
12 members who pay membership dues at the rate of not less than
13 five dollars (\$5.00) per year and who, under the constitution
14 and bylaws of the club, have all voting rights and full
15 membership privileges, and which group is the owner, lessee or
16 occupant of premises used exclusively for club purposes and
17 which group the director finds:

18 (a) is operated solely for recreation,
19 social, patriotic, political, benevolent or athletic purposes;
20 and

21 (b) [~~the proposed licensee~~] has been
22 granted an exemption by the United States from the payment of
23 the federal income tax as a club under the provisions of
24 Section 501(a) of the Internal Revenue Code of 1986, as
25 amended, or, if the applicant has not operated as a club for a

1 sufficient time to be eligible for the income tax exemption, it
2 must execute and file with the director a sworn letter of
3 intent declaring that it will, in good faith, apply for such
4 exemption as soon as it is eligible; or

5 (2) an airline passenger membership club
6 operated by an air common carrier that maintains or operates a
7 clubroom at an international airport terminal. For the
8 purposes of this paragraph, "air common carrier" means a person
9 engaged in regularly scheduled air transportation between fixed
10 termini under a certificate of public convenience and necessity
11 issued by the civil aeronautics board;

12 E. "commission" means the secretary of public
13 safety when the term is used in reference to the enforcement
14 and investigatory provisions of the Liquor Control Act and
15 means the superintendent of regulation and licensing when the
16 term is used in reference to the licensing provisions of the
17 Liquor Control Act;

18 F. "department" means the special investigations
19 division of the department of public safety when the term is
20 used in reference to the enforcement and investigatory
21 provisions of the Liquor Control Act and means the director of
22 the alcohol and gaming division of the regulation and licensing
23 department when the term is used in reference to the licensing
24 provisions of the Liquor Control Act;

25 G. "director" means the director of the special

1 investigations division of the department of public safety
2 when the term is used in reference to the enforcement and
3 investigatory provisions of the Liquor Control Act and means
4 the director of the alcohol and gaming division of the
5 regulation and licensing department when the term is used in
6 reference to the licensing provisions of the Liquor Control
7 Act;

8 H. "dispenser" means a person licensed under the
9 provisions of the Liquor Control Act selling, offering for sale
10 or having in his possession with the intent to sell alcoholic
11 beverages both by the drink for consumption on the licensed
12 premises and in unbroken packages for consumption and not for
13 resale off the licensed premises;

14 I. "distiller" means a person engaged in
15 manufacturing spirituous liquors;

16 J. "golf course" means a tract of land and
17 facilities used for playing golf and other recreational
18 activities that includes tees, fairways, greens, hazards,
19 putting greens, driving ranges, recreational facilities,
20 patios, pro shops, cart paths and public and private roads that
21 are located within the tract of land;

22 K. "governing body" means the board of county
23 commissioners of a county or the city council or city
24 commissioners of a municipality;

25 L. "hotel" means an establishment or complex having

1 a resident of New Mexico as a proprietor or manager and where,
2 in consideration of payment, meals and lodging are regularly
3 furnished to the general public. The establishment or complex
4 must maintain for the use of its guests a minimum of twenty-
5 five sleeping rooms;

6 M "licensed premises" means the contiguous areas
7 or areas connected by indoor passageways of a structure and the
8 outside dining, recreation and lounge areas of the structure
9 that are under the direct control of the licensee and from
10 which the licensee is authorized to sell, serve or allow the
11 consumption of alcoholic beverages under the provisions of its
12 license; provided that in the case of a restaurant, including a
13 restaurant that has operated continuously in two separate
14 structures since July 1, 1987 and that is located in a local
15 option district that has voted to disapprove the transfer of
16 liquor licenses into that local option district, hotel, golf
17 course or racetrack, "licensed premises" includes all public
18 and private rooms, facilities and areas in which alcoholic
19 beverages are sold or served in the customary operating
20 procedures of the restaurant, hotel, golf course or racetrack;

21 N. "local option district" means a county that has
22 voted to approve the sale, serving or public consumption of
23 alcoholic beverages, or any incorporated municipality that
24 falls within a county that has voted to approve the sale,
25 serving or public consumption of alcoholic beverages, or any

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1 incorporated municipality of over five thousand population that
2 has independently voted to approve the sale, serving or public
3 consumption of alcoholic beverages under the terms of the
4 Liquor Control Act or any former act;

5 O. "manufacturer" means a distiller, rectifier,
6 brewer or winer;

7 P. "minor" means a person under twenty-one years of
8 age;

9 Q. "package" means an immediate container of
10 alcoholic beverages that is filled or packed by a manufacturer
11 or wine bottler for sale by the manufacturer or wine bottler to
12 wholesalers;

13 R. "person" means an individual, corporation, firm,
14 partnership, copartnership, association or other legal entity;

15 S. "rectifier" means a person who blends, mixes or
16 distills alcohol with other liquids or substances for the
17 purpose of making an alcoholic beverage for the purpose of sale
18 other than to the consumer by the drink, and includes all
19 bottlers of spirituous liquors;

20 T. "restaurant" means an establishment having a New
21 Mexico resident as a proprietor or manager that is held out to
22 the public as a place where meals are prepared and served
23 primarily for on-premises consumption to the general public in
24 consideration of payment and that has a dining room, a kitchen
25 and the employees necessary for preparing, cooking and serving

1 meals; provided that "restaurant" does not include
2 establishments as defined in rules promulgated by the director
3 serving only hamburgers, sandwiches, salads and other fast
4 foods;

5 U. "retailer" means a person licensed under the
6 provisions of the Liquor Control Act selling, offering for sale
7 or having in his possession with the intent to sell alcoholic
8 beverages in unbroken packages for consumption and not for
9 resale off the licensed premises;

10 V. "spirituous liquors" means alcoholic beverages
11 as defined in Subsection A of this section except fermented
12 beverages such as wine, beer and ale;

13 W. "wholesaler" means a person whose place of
14 business is located in New Mexico and who sells, offers for
15 sale or possesses for the purpose of sale any alcoholic
16 beverages for resale by the purchaser;

17 X. "wine" includes the words "fruit juices" and
18 means alcoholic beverages obtained by the fermentation of the
19 natural sugar contained in fruit or other agricultural
20 products, with or without the addition of sugar or other
21 products, that do not contain less than one-half [~~of one~~]
22 percent nor more than twenty-one percent alcohol by volume;

23 Y. "wine bottler" means a New Mexico wholesaler who
24 is licensed to sell wine at wholesale for resale only and who
25 buys wine in bulk and bottles it for wholesale resale;

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